IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6301 of 2007()

MP.7096/2007 of J.M.F.C.-II, KOCHI
CRIME NO.525/07 OF KOCHI CUSBA POLICE STATION, PALLURUTHY.

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PETITIONER : ACCUSED 3 AND 5:

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1. NAZEER, S/O.KUNJUMON,
   PALAKKATTU PARAMBIL VEEDU, EAST OF AYYAPPA TEMPLE,
   KODAMTHURUTHU VILLAGE, PATTUKULANGARA BHAGOM,
   KUTHIYATHODE.

2. NISHAD, S/O.AZEEZ, PAVUNGAL VEEDU,
   WEST OF V.P.SASI'S HOUSE, V.P.SASI ROAD,
   PALLURUTHY VILLAGE.

BY ADV. SRI.M.R.RAJESH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No.6301 OF 2007

Dated this the 17th day of October, 2007

ORDER

Application for regular bail. The petitioners are accused 3 and 5. Altogether, there are 5 accused persons. They face allegations for the offences punishable, inter alia, under Sec.302 read with Sec.149 of the IPC. The alleged incident took place on 6/8/07. The petitioners were arrested and remain in custody along with the co-accused from 7/8/07. The gravamen of the allegations against the petitioners is that on account of animosity which the 1st accused entertained against the deceased, all the 5 accused persons armed with dangerous weapons proceeded in a pick up van/autorikshaw. The vehicle was hit against the two wheeler in which the deceased was proceeding. The miscreants got out of the vehicle and unleashed a murderous attack on the victim with dangerous

weapons. As many as 22 injuries were inflicted with dangerous weapons on the deceased at the public road. The deceased succumbed to his injuries on the spot. Investigation is not complete. The learned Public Prosecutor submits that the materials collected suggest the commission of the offence of conspiracy punishable under Sec.120B of the IPC also. Necessary steps are being taken to include such allegation also. Final report has not so far been filed.

2. The learned counsel for the petitioner brings to the notice of this Court that the petitioners have no criminal antecedents; whereas the deceased had a dubious record of criminal antecedents.

3. The petitioners, who have remained in custody from 7/8/07, may now be enlarged on bail, submits the learned counsel for the petitioners.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegation is grave and serious. The nature of the offence may not be lost sight of. On the public road in broad day light in pursuance of prior concert, the accused persons have stopped the victim and attacked him to death. The scars which such an incident leaves behind in the mind of the public may also not be ignored,

submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I am satisfied that there is merit in the opposition by the learned Public Prosecutor. I am satisfied that the petitioners do not deserve to be enlarged on bail at this stage. In coming to this conclusion, I have taken note of the relevant inputs including the nature, gravity of the allegations, the quantum, quality of materials collected, the stage of investigation as also the possible deleterious impact which the release of the petitioner on bail at this early stage would leave behind on the investigation of this case in particular and the law and order situation in general.

6. In the result, this bail application is dismissed. I may hasten to observe that the petitioners shall be at liberty to move this Court or the courts below again for bail at a later stage of the investigation – not, at any rate, prior to 31/10/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge